

KNOW YOUR RIGHTS!

A PRIMER FOR CANADIANS

A cop stops you while walking on the street and demands to see your identification, he says you 'fit the description' of a robbery suspect. A private security guard confronts you in the parking lot of a mall and asks you to empty your pockets. You're approached by some cops outside of an all-ages show who accuse you of being inebriated, they say they have the right to search you for liquor because you are under eighteen. In a society full of rules, heirarchy and authority figures, one or more of these scenarios has probably already happened to you.

KNOW YOUR RIGHTS!



PUBLISHED BY
**ANARCHIST
BLACK CROSS CALGARY**
PO BOX 23134 - 1706 4 ST SW T2S 3A8



ANARCHIST BLACK CROSS CALGARY



This work is hereby released into the Public Domain.
To view a copy of the public domain dedication, visit
<http://creativecommons.org/licenses/publicdomain/>
or send a letter to
Creative Commons
171 Second Street, Suite 300
San Francisco, California
94105
USA

dismantled.

To this end, we must first defend all our existing legal rights and freedoms against the constant onslaught of repressive actions by the ruling elites. Additionally, we must continue to support prisoners and those affected by the judicial system, morally, financially and legally. Also, we will continue to challenge the prison/industrial complex through campaign and educational work.

Organizationally, we are non-hierarchical and consensus-based. We accept members from all walks of life and lifestyle. We will work cooperatively with other groups, but we refuse to sacrifice our autonomy either as a group or as individuals."

For more information on the Anarchist Black Cross, refer to:

<http://www.anarchistblackcross.org>

<http://www.abcf.net>

Thanks and acknowledgements

The authors of this pamphlet relied heavily on material from: The G8 Legal Collective, The Carleton OPIRG, "First Line Criminal Law Information" by Martin F. Allen, The LawyerShop Centre for Canadian Legal Information, criminalreview.ca, The University of Montreal "Judgements of the Supreme Court of Canada", The Canadian Charter of Rights and Freedoms and The Law Society of Alberta.



ANARCHIST BLACK CROSS CALGARY

PO 23134 1706 4 St SW, Calgary, AB, T2S 3A8

<http://abc-calgary.anarchistservices.ca>

abc-calgary@anarchistservices.ca

Know your rights!

A cop stops you while walking on the street and demands to see your identification, he says you 'fit the description' of a robbery suspect. A private security guard confronts you in the parking lot of a mall and asks you to empty your pockets. You're approached by some cops outside of an all-ages show who accuse you of being inebriated, they say they have the right to search you for liquor because you are under eighteen. In a society full of rules, hierarchy and authority figures, one or more of these scenarios has probably already happened to you.

The police are accustomed to being obeyed. When they issue a command they expect compliance, and we, indoctrinated as we are to 'respect authority' by our schools, families, churches and the media, usually comply unquestioningly. However, the word of the police officer or security guard is not law. As a Canadian citizen, you have certain rights and freedoms that the police cannot violate, no matter how brusque their tone.

This pamphlet is an attempt to summarize your rights in Canada. In a sense, it is a kind of 'self-defense' manual designed to help you protect yourself from intimidation by the police and pseudo-police, such as security guards. Although the information in this pamphlet is as accurate as possible at the time of publication (May, 2007), the authors are not lawyers and nothing here should be construed as a substitute for professional legal advice. If you find yourself in a serious situation with the law, call a lawyer! It's your right.

Lastly, a note about language. Although any discussion of the law necessitates some legalese and mumbo-jumbo, every attempt has been made to the material clear and accessible. A short glossary of terms is included at the end of this pamphlet for easy reference.

You are not an American

Most of us, born and bred as we are on American television, are probably already familiar with the rights given under the United States Constitution: the first amendment right to free speech, the fifth amendment right not to incriminate yourself, and the popular TV cliché of the 'one phone call.' Before you continue with this pamphlet, it is important for you to remember this: you are not an American! Although the Canadian legal system does afford many rights that are similar to those laid down in the US Constitution, the systems do differ in many ways. That 'one phone call', for instance. In Canada you have the right to contact legal counsel, and you can make as many phone calls as is "reasonable" to do so.

The Charter of Rights and Freedoms

Every Canadian citizen has a number of rights outlined under the Canadian Charter of Rights and Freedoms. At first glance, the Charter reads like a grand document guaranteeing each of us ironclad protection from any meaningful encroachment by the state. However, the Charter itself states that our rights and freedoms are "subject [to] reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." Of course those 'limits' and what constitutes 'reasonable' is decided by the very institution the Charter is supposed to be protecting us from: the state.

Having said that, the Charter does guarantee, to some extent, the following basic rights:

- 2a) freedom of conscience and religion
- 2b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication
- 2c) freedom of peaceful assembly



2d) freedom of association

6(1) the right to enter, remain in and leave Canada

7. the right to life, liberty and security of the person

8. the right to be secure against unreasonable search or seizure

9. the right not to be arbitrarily detained or imprisoned

11c) the right to not be compelled to be a witness in proceedings against yourself

11d) the right to be presumed innocent until proven guilty

11h) the right, if finally acquitted of the offence, not to be tried for it again

12. the right not to be subjected to any cruel and unusual treatment or punishment

15(1) the right not to be discriminated against in the law based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability

Dealing with police

The police are accustomed to being obeyed. As such, they are more than willing to ask questions and make demands that violate people's rights and regard compliance as nothing more than a sign of a 'healthy respect for authority.' It is important to remember that, just because a cop asks you to do something it does not mean that you are legally obligated to do so.

Identification

Cops always want to know who you are and invariably will ask to see some form of identification or demand you identify yourself. In these cases it is important to remember that:

You are not obliged to carry ID: In Canada there is no general rule that states that you have to carry any sort of identification with you. It is perfectly legal to walk down the street without a driver's license or birth certificate. The exception here, of course, is when operating a motor vehicle you must have your driver's license with you.

You are not obliged to identify yourself: When you are confronted by a police officer, you are either 'under arrest', 'detained' or just having an informal conversation. If you are not arrested or detained you are under no obligation to identify yourself. In fact, you are completely free to terminate the conversation and walk away at any time.

You are not obliged to identify yourself when arrested: Even if you have been arrested or detained, you are still not technically obliged to identify yourself. This can be a risky proposition, however, as the police



Glossary

Arrest: Being taken into custody by the police for the purpose of being charged. Arrests can be made by a warrant or by a peace officer.

Arrest Warrant: A document, signed by a judge, mandating the arrest of an individual.

By-law: A law passed by a city or town or any government level lower than provincial.

Charter of Rights and Freedoms: The document outlining the basic rights and freedoms of Canadian citizens.

Citizen's Arrest: An arrest by a person who is a non-peace officer.

Counsel: Your lawyer.

Crown: The prosecution.

Detention: A step lower than arrest, when a police officer hold someone temporarily to assist in the investigation of a crime.

Habeas Corpus: The law stating that a person cannot be held in custody without legal cause.

Hybrid offence: An offence that can be prosecuted as either indictable or summary at the crown's option.

Indictable offence: A serious offence, similar to what Americans call a 'felony.'

Peace officer: Any officer with the right of arrest such as a police officer, by-law officer, transit cop or park warden.

Provincial offence: An offence in provincial jurisdiction, usually traffic offences.

Recognizance: The procedure by which a person is released from custody.

Remand: An order keeping someone in custody. Alternately the temporary holding facility, the 'remand centre'.

Search Warrant: An order from a court official permitting a police officer to enter and search a place or stop a person and seize evidence for use in a criminal investigation.

Summary offence: A more minor criminal offence.

Summons: A formal document demanding someone appear in court.

Young Offenders Act: Federal law regarding minors that was replaced by the Youth Criminal Justice Act.

Youth Criminal Justice Act: A federal law outlining how individuals between the ages of 12 and 17 are dealt with in the criminal justice system.

About ABC

The Anarchist Black Cross (ABC) is an organization dedicated to supporting prisoners, with an emphasis on anarchist and revolutionary prisoners, and challenging the prison system in general. The ABC was originally formed in Tsarist Russia under the name "Anarchist Red Cross" to support political prisoners in the years leading up to the Bolshevik revolution. After the seizure of power in Russia by Lenin, the group changed its name to the Anarchist Black Cross and fled to Britain to escape Bolshevik repression. During the 1930's and 40's, the Black Cross did extensive work in aiding Spanish political prisoners held by the Franco regime.

In the early 1980's, the Black Cross experienced a rejuvenation in North America. Today there are ABC chapters around the world. Each Black Cross chapter is autonomous and decides itself how best to focus it's energies. Currently there are two umbrella organizations for the Black Cross: The ABC Network and the ABC Federation.

The Calgary ABC chapter was formed in early 2007 and operates under the following Statement of Unity:

"We recognize the prison system as an oppressive and inhumane tool of the state that exists not to cure social ills, but to reinforce class and race privilege. To further human freedom, this institution must be



to a citizen's arrest. Legally, a property owner can arrest you using the minimum required force if he or she catches you in the act of committing any criminal offence, either summary or indictable.

For the arrest to be valid you must be caught red-handed. Unlike the police who can fall back on 'reasonable suspicion', the property owner actually has to catch you in the act. Additionally, a property owner can only arrest you for a crime that either takes place on his or her property or in relation to his or her property. That means that if you boost that chocolate bar from the corner store and run, the property owner can nab you down the block, a crime 'in relation' to the property. It also means that if you assault someone on the premises, the property owner can arrest you, a crime on the property.

This citizen's arrest law also applies to people who are 'agents' of the property owner. This includes security guards, loss-prevention officers, clerks, bouncers and the like.

Arrest by other citizens

The average Joe on the street is also empowered by section 494 to make a citizen's arrest. However, the limitations on a valid citizen's arrest by a non-property owner are significantly tighter.

In general, a citizen can only arrest you in the following two cases:

Caught red handed: If you have been caught in the act of committing an indictable offence, a citizen can legally arrest you. Note that this only applies to indictable and not summary or by-law offences

Hot pursuit: A citizen can legally arrest someone if they are being pursued by a person who legally has the right to make that arrest. This means, if you're running from any peace officer (cop, transit cop, park warden etc.) who is intent on arresting you, any citizen on the street can nab you and legally arrest you.

It should be noted that the laws governing citizen's arrest do not include the right to search and seizure. That security guard does not have the right to pat you down and that guardian angel can't seize your nail file as a 'dangerous weapon.' Additionally, anyone who makes a citizen's arrest is legally obligated to summon the police as quickly as possible. If that storekeeper decides to keep you locked in the back room to lecture you about the perils of chocolate bar thievery for three hours before calling the cops, he is acting outside of section 494 and may, in fact, be guilty of unlawful confinement.



will frequently detain people in order to ascertain their identity. Giving your name and address may be the fast ticket out of a holding cell. Or not. Additionally, if you have been charged with an 'indictable offense' (more on this later), you will be fingerprinted and your identity may well be found out in any event.

It is illegal to lie about your identity: While you are not obliged to identify yourself, it is never a good idea to lie about your identity. It is tempting to think that giving up a false name and address will get you the best of both worlds: a release from detention while still protecting your privacy. However, the police can be resourceful and, if you caught giving a false identity you can be charged with 'obstruct justice', 'obstruct police' or even 'public mischief.'

Although the general rule is that you do not have to present identification or identify yourself to the police, there are two notable exceptions.

You must have a license while driving: If you are operating a motor vehicle and are pulled over by a cop for any reason, you must present your driver's license on demand. This only applies to the driver of the car, however. Passengers are under no obligation to identify themselves.

You must show ID when ticketed: If you are charged with a 'provincial' or 'by-law' offence, you are obliged to show your ID. These are 'ticketable' offences where the cop will write you a ticket with a fine on the spot and the onus then rests on you to either fight the ticket or accept the conviction.

Arrest, Detention or 'Free to go'

When you are dealing with the police on the street or the doorstep of your home, you are considered to be in one of three states: Arrested, Detained or Free to go. Generally speaking, you are always 'Free to go' unless the cop formally arrests you or informs you that you are being detained. As the name implies, if you are 'Free to go' you are not obliged to remain in the presence of the police. You can simply leave.

If you have any question about your status when dealing with the police, you can simply ask and they are obliged to inform you. If a cop asks you to 'come in for questioning' or tells you to stay on a particular spot or sit in a squad car while they go about business elsewhere you can simply ask 'am i being arrested or detained?' If the answer is 'no', you are under no obligation to remain in the presence of the police and can go on your way.

Arrest: If you get arrested, the police will immediately tell you so. To make formalize an arrest, the cop will also need to touch you, however dodging or fleeing this touch is almost certainly never a good idea as it will result in the added charge of 'obstruct police' or 'obstruct justice.'

Detention: Detention is a little trickier than arrest. Police are allowed to 'detain' you in the course of an investigation for a 'short period of time' if they have a 'reasonable suspicion' that you are involved in a criminal offence. If you've ever sat in your car while a cop ran your driver's license through the squad car computer, you've probably been under detention. Unlike arrest, the police are not obliged to inform you of detention. You will need to explicitly ask.

If a police officer attempts to prevent you from leaving, you should always ask 'am i being arrested or detained?' and make it clear that you wish to leave. Once you have been arrested, if it comes to that, the Charter of Rights and Freedoms affords you three basic rights:

1. The right to know what you have been arrested for. The police will invariably tell you why you have been arrested immediately after your arrest.



2. The right to 'retain counsel', to get a lawyer in short, and the right to be told explicitly that you have this right. In real life situations you will not have an opportunity to exercise this right until you are at the police station.

The most important of these rights, at least initially, is the second. The right to 'retain counsel' is, essentially, your right to remain silent. You are under no obligation to talk to the police or answer any of their questions during the arrest stage.

Questioning

In Canada there is no such thing as 'being taken in for questioning.' If a cop asks you to come down to the police station to talk or starts asking you questions on the street, he is in essence asking you to do them a favour. In general, you are not obliged to answer any questions or even say anything to the police. You should immediately ask if you are under arrest or detention. Even if you are officially arrested or put under detention, you are not obliged to answer any questions without your lawyer present.

Often, a strategy used by the police is to intend to arrest someone but ask them to 'come in for questioning' first. This technique allows the cops to get some 'freebie' questions in before their quarry realizes they are in trouble. If you are requested to come in for questioning it is perfectly legal, and advisable, to contact a lawyer immediately and have them interact directly with the police.

Search and Seizure

The police do not have the right to search you or seize any of your personal possessions without your consent. The exceptions to this are:

1. You are under arrest. If you are arrested, the cops have the right to search your person and will probably do so. Remember that you do not have to answer any questions during the search. If the cops, for instance, find a know your rights pamphlet published by an anarchist organization on your person and ask you where you got it, you do not have to tell them.

2. The police have a search warrant. If the police show up at your home with a search warrant, they are obliged to show you a copy of the warrant and let you inspect it. Every search warrant needs to be signed by a judge and will outline the premises to be searched, the items to be searched for and seized (this part is often very vague) and the dates and



money if you fail to appear for your court date. Additionally, you may also have certain limitations set on you. You may have to report to a probation officer and may not be allowed to associate with certain people, go certain places or leave the province. It is important to note that, unless you live out of province or more than 200 km away, you don't actually have to put up any cash up front. This makes making bail a lot easier! Of course it also means that it's easy for you to skip the country. If you're not around for your court date, you're not around to pay your recognizance either. To stop this, courts often ask for a third party to post a 'surety'. This means that a member of your support network has to take responsibility for paying your recognizance if you fail to appear. Generally, the court will want proof that this person actually has the ability to pay.

Under 18

No matter how old you are, you have the same rights as an adult. If a cop tries to tell you that you have to show him identification or answer his questions because you are a minor, he's lying to intimidate you.

The difference between being an adult and a minor only starts once you have been charged. People between the ages of 12 and 17 are subject to the Youth Criminal Justice Act. This is a law that was introduced in 2003 to replace the Young Offenders Act.

Under the Youth Criminal Justice Act you can be arrested and charged in the same way as an adult. The major differences become apparent after charges have been laid:

Bail: As a youth you will almost assuredly not be released on your 'own recognizance.' You will need to have someone, usually your parents or guardians, post a surety for you. This means that if you are a minor and don't have a guardian or do not have a supportive guardian, you can sit in remand until trial!

Notice to parents: Under the law, the police will inform your parents or guardian, in writing, once you have been charged.

Name publication: Under the old legislation there was a general ban on publishing the names of young offenders. Under the Youth Criminal Justice Act, however, if you have been found guilty and are to be sentenced as an adult, your name can be released.

Alternative sentences: One of the key components of the YCJA is a stress on non-jail punishments. If you have been convicted of a relatively minor crime, you may very well only have to do community or public work, pay restitution or write formal apologies.

Adult Sentencing: The new legislation does not allow minors to be 'tried as an adult.' Instead, you would be tried as a minor but, potentially, sentenced as an adult. The YCJA has lowered the age to which adult sentences can be imposed from sixteen to fourteen.

Citizen's arrest

It's not just the cops you have to watch out for. In Canada, non-police such as security guards, loss-prevention officers and even average people on the street can arrest you under certain circumstances. "Citizen's arrests" are governed by section 494 of the Canadian Criminal Code, and the circumstances under which these arrests are legal is very narrowly defined.

Arrest by property owners

If you were ever nabbed as a kid by a store owner for stealing a chocolate bar, you have been subjected



2. The right to get a lawyer

The right to silence cannot be stressed enough. If you are innocent of the charges, you may be tempted to tell your story and clear your name. However it is important to remember that any questions the police ask you are not designed to help you, but to convict you. Questioning is a stressful experience and the police are more than willing to prey on that stress by badgering you or deliberately attempting to confuse you. Any errors you make in a statement during questioning can easily come back to haunt you during trial, even if they are honest mistakes. The cop may, for instance, ask you over and over again where you were at 12:30 am. The first twenty times you may answer firmly and honestly but, eventually, you may start to doubt yourself. If you finally answer 'I don't know' to the question, which response do you think will go in the police records: your twenty firm and truthful answers or the one that destroys your alibi? Remember that the police are professionals at manipulating the questioning process. No matter how cool and collected you may feel at the time, you are under stress and are no match for the questioning officer. Keep it simple and respond to all questions with a request to contact a lawyer.

You have the right to contact a lawyer and, under Canadian law, must be given a 'reasonable opportunity' to do so. That means you can make the phone calls necessary to contact legal council, usually three. If you do not have a lawyer's name and phone number handy, the police will give you the Yellow Pages to find one. Picking a lawyer on the spot can be tough. Make sure you choose a criminal lawyer and, if it's outside of business hours, look for someone who advertises 24 hour response.

If you cannot afford a lawyer, you should look for either 'Legal Aid' or 'Legal Services Society', a free legal service funded by the Provincial government. Legal aid is restricted to people with low incomes and no meaningful property, however. If you have a good income or own your own home, you will probably not qualify for legal aid. If this is the case, you should probably ask Legal Aid to refer a lawyer to you. If at all possible, you should consider retaining a private lawyer. Most criminal lawyers understand that the people who call them aren't rich and have flexible payment plans, and a couple of hundred dollars is a small price to pay if it keeps you out of jail.

Often there is the temptation to use your phone time to call your family or other support network. This is a bad idea, since your phone access is limited. A lawyer will usually be more than happy to contact people for you.

Bail and remand

If you do not get a recognizance, you will be brought before a justice for a bail hearing. Bail hearings should, in theory, happen within 24 hours of arrest, and that usually means a night in the remand centre or some other holding facility. The remand intake process is a slow and tedious one. Your personal affects, including clothes, will be confiscated and you will be issued a standard remand uniform.

Whether or not the justice decides to release you on bail depend on several factors. In Canada, everyone who is charged with a crime is presumed to be innocent until proven guilty. This creates a problem for the justice system: how can they justify keeping you locked up awaiting trial if you're presumed innocent? The court system rationalizes away this problem by stating that everyone is entitled to be released on bail unless the prosecutor or 'Crown' can make a reasonable case that you are in some way either a threat to society or likely to not show up for your court appearance. It is important to remember that the onus is on the Crown to make a convincing case.

When you get bail you will probably be given a recognizance, ie you will be fined a certain amount of

times the search warrant is valid. If the warrant is invalid for any reason, such as a wrong address or date, you have the right to deny the police entry. When this happens, the cops will usually wait nearby while they apply for a valid warrant. Use this time to call a lawyer! Once a search warrant has been carried out, the police must leave a copy of the warrant with you or on the premises.

3. The cops have 'reasonable grounds' to believe you have weapons or drugs. The phrase 'reasonable grounds' is vague, but generally does not include how you're dressed or the company you are keeping.

In general, it is always a good idea to state to the police and any potential witnesses that you do not consent to any search. If the search is legal, the police will do it regardless of your protests. If the search turns out to not be legal, however, the police will not be able to say in court that you consented, and the evidence may be thrown out.

The laws governing the search of your car is a little less cut and dried. Technically, the police need a warrant to search a motor vehicle. However, in many cases when a person is arrested in a car, as either a driver or passenger, the cops will search the vehicle under the same premises that allow them to search your person. Because the law concerning car searches is vague, it is especially important that you state clearly that you do not consent to any search of your vehicle.

types of crimes: indictable, summary, by-law

In Canada there are, generally speaking, three types of crimes: indictable offences, summary offences or by-law infractions. Although that sounds like a lot of legal-speak, the difference between the types of offences is very important.

Indictable: Indictable offences are the 'serious' crimes, and are similar to what the Americans call 'felonies.' They include crimes such as murder, assault and treason. If you are charged with an indictable offence, you will be fingerprinted and photographed. In most cases, an indictable charge will permit you to seek a trial by jury, with the general exception being if your charge is in the 'under \$5,000' class, ie theft under \$5,000 or fraud under \$5,000. If you have been convicted of an indictable offence, you can seek a pardon five years after you have finished serving your sentence.

Summary: A summary offence is much less serious than an indictable one. Unless otherwise proscribed, a summary conviction carries a maximum penalty of a \$2,000 fine, a six month stint in jail or both. You can become eligible for a pardon for a summary conviction three years after you finish your sentence, ie after you pay off the fine or finish the jail time. If you are convicted of a summary offence you will not be fingerprinted and you will not have the option of a jury trial. Common summary offences include: creating a disturbance, harassing telephone calls and being in possession of less than 30g of pot.

Hybrid: Just to make things more interesting and provide more work for lawyers, the criminal code also has the 'hybrid' or 'dual procedure' class. Hybrid charges are offences that can be tried either as summary or indictable. Of course the government (the 'Crown') gets to choose whether to go the indictable or summary route. All hybrid offences are treated as indictable offences until the Crown decides otherwise, meaning you will be fingerprinted if charged with a hybrid offence. Most crimes in Canada are Hybrid offences

By-laws: By-laws are laws passed by a city or municipality that are only enforceable within the city limits. Parking violations, animal licensing, loitering laws and public 'unsightliness' regulations are all by-laws. Generally by-laws are dealt with by a ticket issued by either a cop or a by-law officer. Unlike other



interactions with the police, if you are ticketed for a by-law offence you must present identification. The nature and penalties for by-law infractions are different from city to city.

Common crimes

If you are arrested, the arresting cop will inform you of the charge. Common charges are:

Trespass: In order to be charged with trespassing, you need to enter enclosed private property or property that has been explicitly posted as such. Usually, if you hop a fence, you're in trespass territory. An exception to this, though, is unfenced laws. Cutting through someones yard? That's trespassing.

Mischief to Property: In legal terms this is when you 'willfully destroy or damage property or render property dangerous, useless, inoperative or ineffective, or obstruct, interfere or interfere with the lawful use, enjoyment or operation of property.' This wide net catches everything from slashing tires to occupying a school administrator's office in protest.

Causing a Disturbance: In order to actually be 'causing a disturbance' you have to be in public. If your house party gets a little rowdy, you may be subject to a by-law noise violation, but you won't technically be causing a disturbance. The definition of what constitutes a 'disturbance' is rather vague. It can include loud or angry demonstrations or impeding traffic (vehicle or foot).

Assault: The general perception is that 'assault' means to hit someone without their consent. However, 'assault' also includes merely attempting to hit someone or even just threatening them with an act or a gesture. A swing and a miss or even just shaking your fist at someone constitutes assault in Canada. Assault is often also referred to as 'common assault.'

Assault Police: This is the same as 'assault', but against a 'peace officer' who is in the process of performing their duty. It is important to note that 'peace officer' includes more than just police. Transit cops, prison guards, game wardens and military police are all 'peace officers.' For an assault to be 'assault police', the peace officer must be in the process of performing their duty. Punching an off-duty park ranger is just common assault.

Assault to Resist Arrest: This applies to not only your arrest, but anyone's. If you assault a peace officer who is attempting to affect a legal arrest on someone else, you will likely be charged with assault to resist arrest. While you are technically allowed to exert a



'reasonable' and 'minimum' amount of force to resist an illegal arrest of yourself or another, convincing the court that the arrest in question was illegal will be extremely difficult. No judge wants to empower the citizenry with the idea that they can fight back, even if the arrest was illegal.

Obstruct Police: This crime generally refers to any deliberate attempt to stop or impede an arrest that is not assault. You can also be charged with obstruct police if you willfully lie to a police officer or even expose the identity of an undercover agent.

Conspiracy: Conspiracy is a crime of talking. To be guilty of conspiracy, all that is needed is for you and at least one other person to have communicated and agreed to commit a summary or indictable offence.

Being a party: If you encourage someone to commit an offence or aid them in their criminal activity in any substantial way, including helping them to escape or hide after the crime, you could be charged with 'being a party.' The punishment for being a party to an offence is the same as if you had committed the offence yourself. Allowing a crime to be committed through inaction, however, is not a crime.

Custody

What happens to you after you have been arrested can depend on how you have been arrested. Generally, there are two ways you can be arrested: on the spot by a cop, or by an arrest warrant issued for you by a judge.

Arrest without warrant

If you have been arrested without a warrant, the arresting officer can release you at any point, usually at his or her discretion. Oftentimes, this power of release can be used to apply pressure on you to cooperate. If the cop releases you on the spot after an arrest, he or she will often present you with a piece of paper called an 'appearance notice.' This is a legally-binding document and, if you fail to appear at the specified time, an arrest warrant will almost certainly be issued for you. If the cops wait until you have been taken down to the station to release you, you may also be brought before a justice of the peace and subject to a 'recognizance.' Basically, a recognizance is a guarantee that you will show up for a court date. Sometimes a recognizance can be just your word that you will attend, but more often it is a sum of money, up to a maximum of \$500.

Arrest by warrant

If you have been arrested with a warrant, the situation is usually a lot worse and more complicated. Although in certain circumstances it is possible for the arresting cop to release you on the spot, it is highly unlikely. Almost assuredly, you will be taken into custody. Once you have been charged you will usually be brought before a justice of the peace and may be given a recognizance. However in warrant arrests a recognizance may include, in addition to the cash, a set of conditions you will have to fulfill. These conditions often include things like reporting to bail supervisor, surrendering your passport, or a promise not to associate with certain individuals.

Questioning and your right to silence and a lawyer

Regardless of how you have been arrested, the first thing that will probably happen to you at the police station will be questioning. It is important at this stage to remember that you have two very important rights.

1. The right to remain silent

